



claims should be dismissed, pursuant to 28 U.S.C. 1915(g). Plaintiff's new allegations contained in his exceptions regarding denial of medical treatment for a broken toe, which occurred in September 2003, are insufficient to meet the "imminent danger of physical injury requirement."

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$255.00 appellate filing fee, regardless of the outcome of the appeal. *Henderson v. Norris*, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that plaintiff is denied leave to proceed in forma pauperis, and his claims are dismissed, without prejudice, pursuant to 28 U.S.C. § 1915(g), because plaintiff has had three or more cases dismissed as frivolous or for failure to state a claim.

/s/ \_\_\_\_\_

NANETTE K. LAUGHREY  
United States District Judge

Dated: May 23, 2005  
Jefferson City, Missouri